

EXHIBIT B

1
2
3
4
5
6 IN THE CIRCUIT COURT OF THE STATE OF OREGON
7 FOR THE COUNTY OF CLACKAMAS

8 ERIC A. JOHNSON,

9 Plaintiff,

10 v.

11 FOSTER FARMS, LLC, a California
12 limited liability company,

13 Defendant.

Case No. 20CV38579

PLAINTIFF'S FIRST REQUEST FOR
PRODUCTION OF DOCUMENTS

14 **To: Defendant and Its Attorneys:**

15 Pursuant to ORCP 36B and ORCP 43, Plaintiff requests that Defendant produce the
16 documents and tangible things described below for inspection and copying:

17 DEFINITIONS

18 A. These requests do not require the production of any documents which are
19 subject to the attorney-client privilege or other applicable privileges. If it is claimed that a
20 document required for production is privileged or otherwise protected from discovery,
21 provide a privilege log identifying each such document by its author, recipients (including
22 distributees), date, subject matter, the number of the request for production to which the
23 document would be responsive, and state the nature and basis of each claim of privilege.

24 B. If you object to any part of a document request, respond to all parts of such
25 document request as to which you do not object, and to each part to which you do object and
26 set forth a basis for each objection.

1 C. As used herein, "document(s)" refers to original papers, tapes, disks, or other
 2 substances on which communications, data, or information is recorded or stored, whether
 3 made by manual, mechanical, photographic or electronic process. This definition includes,
 4 but is not limited to, all drafts or superseded revisions of each document(s), and e-mail
 5 messages, and backup tapes and deleted records of e-mail messages.

6 D. As used herein, "document(s)" includes, but is not limited to: letters,
 7 memoranda, notes, witness statements, papers of any kind or character, pamphlets,
 8 brochures, books, ledgers, reports, receipts, invoices, bills, checks, purchase orders,
 9 contracts, agreements, evidence of indebtedness, schedules, calendars, diaries, minutes of
 10 meetings, and computer input or printouts.

11 E. As used herein, and unless otherwise specifically stated herein, "Defendant"
 12 includes, but is not limited to: **Foster Farms, LLC**, and all parent corporations and
 13 successors in interest of Defendant, and any and all present or former officers, directors,
 14 agents, employees, and all other persons, firms and corporations, acting or purporting to act
 15 on behalf of Defendant.

16 TIME AND PLACE

17 The documents and tangible things requested herein shall be produced within forty-
 18 five (45) days of service of this request at Busse & Hunt, LLC, 1025 American Bank
 19 Building, 621 SW Morrison Street, Portland, Oregon 97205, or at such other time and place
 20 as may be agreed upon by the parties in the interim.

21 DOCUMENTS AND TANGIBLE THINGS REQUESTED

22 **REQUEST NO 1:** Plaintiff's personnel file or files wherever and by whomever
 23 maintained.

24 **REQUEST NO. 2:** Any documents pertaining to Plaintiff's medical condition,
 25 chemical exposure, workers' compensation claim, work restrictions, request for
 26 accommodation, and/or performance, whether or not contained in a personnel file, including,

1 but not limited to, any supervisor note, e-mail, memorandum or file.

2 **REQUEST NO. 3:** Any documents, notes, memos, reports or witness statements
3 relative to any investigation conducted concerning Plaintiff, Plaintiff's diabetes, Plaintiff's
4 chemical exposure or assertion he had been exposed to chemicals in the workplace, workers'
5 compensation claim, or whether an accommodation to Plaintiff's limitations could be
6 effected and/or Plaintiff's termination or reason(s) for termination.

7 **REQUEST NO. 4:** Any job description, work rules, or performance standards
8 which applied to Plaintiff during the last year of his employment.

9 **REQUEST NO. 5:** Any training materials which were supplied to Plaintiff, or to
10 Plaintiff's supervisor as to the training Plaintiff should receive or the counseling or corrective
11 action which should be given in the event of any perceived deficiency in Plaintiff's
12 performance.

13 **REQUEST NO. 6:** Any personnel rules or regulations that applied to Plaintiff,
14 whether given to Plaintiff directly, or given to Plaintiff's supervisor or manager to apply,
15 including, but not limited to, any rules or regulations regarding granting or requesting an
16 accommodation, or taking restroom breaks.

17 **REQUEST NO. 7:** Any employee handbook or manual which was given to
18 Plaintiff at any time during his employment, including any revisions thereto.

19 **REQUEST NO. 8:** Any document concerning Plaintiff's diabetes, work
20 restrictions, request for accommodation, Defendant's attempts to engage in the interactive
21 process, and/or Defendant's attempt, if any, to reasonably accommodate Plaintiff.

22 **REQUEST NO. 9:** Any documents related to or demonstrating any asserted or
23 perceived poor performance and/or misconduct by Plaintiff.

24 **REQUEST NO. 10:** Any document that supports any of Defendant's pleaded
25 defenses.

26 **REQUEST NO. 11:** Any document that references, reflects or is related to

1 Defendant's awareness that prior to his termination Plaintiff suffered exposure to a chemical
 2 or to peroxide fumes, or awareness that Plaintiff asserted he had been exposed to a chemical
 3 or peroxide fumes in the workplace.

4 **REQUEST NO. 12:** The most recent financial statement for Defendant.

5 **REQUEST NO. 13:** Any and all documents pertaining or referring to Plaintiff's
 6 performance, including, but not limited to, any supervisor note, memorandum or file
 7 concerning or which measure or compare Plaintiff's performance to that of any co-worker,
 8 all documents concerning any praise of or complaint about Plaintiff or Plaintiff's
 9 performance, all documents containing a job description for Plaintiff's position(s), and all
 10 documents describing the duties of Plaintiff's position(s).

11 **REQUEST NO. 14:** Any liability insurance policy which may provide any coverage
 12 whatsoever to either Defendant for any claim asserted in the operative Complaint, including
 13 the policy declarations and binder.

14 **REQUEST NO. 15:** All documents pertaining in any way to any agreement,
 15 promise, request, or demand that Defendant or its insurance carriers pay or be required to pay
 16 any sum in contribution to defense costs for either Defendant.

17 **REQUEST NO. 16:** All documents pertaining in any way to the conditions under
 18 which either Defendant is being provided a defense by any entity or individual, including
 19 without limitation all documents stating or referring to a "reservation of rights.

20 **REQUEST NO. 17:** Any and all documents including, but not limited to,
 21 correspondence, memoranda, notes, affidavits, declarations, statements, and e-mails that
 22 concern, refer, or relate to the subject matter of this lawsuit which either Defendant or either
 23 of Defendants' agents have sent or received from any person or persons having information
 24 or knowledge relating in any way to the allegations in Plaintiff's complaint or either of
 25 Defendant's answer, affirmative defenses, and/or counterclaim(s).

26 **REQUEST NO. 18:** Any statement, whether handwritten, typed, electronically

1 recorded, or otherwise recorded concerning any interviews of persons with information or
 2 knowledge relating to the allegations in Plaintiff's complaint or either of Defendant's answer,
 3 affirmative defenses, and/or counterclaim(s).

4 **REQUEST NO. 19:** Any and all documents referring or pertaining to Defendant's
 5 termination of Plaintiff's employment, including, but not limited to, documents of or related
 6 to communications by management and/or human resources regarding the circumstances
 7 leading up to Plaintiff's termination, the reason(s) for Plaintiff's termination, and/or the
 8 decision to terminate Plaintiff's employment.

9 **REQUEST NO. 20:** For the period of May 1, 2020 to present, any and all
 10 correspondence, including, but not limited to all e-mails, that mention, name, note, or refer to
 11 Plaintiff, but which was not sent or received by Plaintiff.

12 **REQUEST NO. 21:** All documents that Defendant provided to the Oregon Bureau
 13 of Labor and Industries in relation to any claim filed by Plaintiff against Defendant.

14 **REQUEST NO. 22:** All documents related to Plaintiff requesting paperwork to file
 15 a workers' compensation claim, and such paperwork itself if it exists.

16 **REQUEST NO. 23:** All documents related to Defendant's awareness that Plaintiff
 17 had suffered, or asserted to have suffered, a heart attack.

18 **REQUEST NO. 24:** All documents related to or reflecting Plaintiff's report of
 19 unsafe working conditions, including, but not limited to, exposure to peroxide vapor or fumes
 20 in the workplace and/or breathing difficulties or irritation due to chemical exposure.

21 **REQUEST NO. 25:** All documents related to or reflecting Plaintiff's report of
 22 unsafe working conditions, including, but not limited to exposure to peroxide vapor or fumes
 23 in the workplace and/or harm or irritation to his eyes due to chemical exposure.

24 **REQUEST NO. 26:** All documents related to or reflecting Plaintiff's report of
 25 unsafe working conditions, including, but not limited to, Plaintiff taking pictures of the
 26 peroxide used at work and any such pictures shared with management.

1 of the person or organization in possession of the document.

2 B. This request is a continuing request up to and through the trial of this case and
3 shall require production of after-acquired documents, within ten (10) working days of their
4 discovery, by Defendants until thirty (30) days before any date set for trial of this case, and
5 shall require immediate production of after-acquired documents during the thirty (30) day
6 period prior to trial.

7 DATED this 19th day of November, 2020.

8 BUSSE & HUNT, LLC

9
10 s/ Scott N. Hunt

SCOTT N. HUNT, OSB #923433

shunt@busseandhunt.com

Telephone: (503) 248-0504

Of Attorneys for Plaintiff Eric A. Johnson